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Tackling "Non-Financial Misconduct" - A Key Focus for the FCA in 2020

March 2, 2020

The FCA has set itself a key objective in 2020 to tackle “non-financial misconduct” in the financial services sector. In particular, the introduction of the FCA’s Senior Managers & Certification Regime in December 2019 has been used as a catalyst with a view towards cultural reform within the financial services industry.

For example, in its “Dear CEO” letter of 6 January 2020 (which was aimed at wholesale general insurance sector), the FCA set out its clear expectations that firms in the sector are proactive in tackling issues of non-financial misconduct, which along with an unhealthy culture is highlighted as a key root of harm to consumers, market participants, employees and the industry generally. The FCA has made clear that it expects firms, and senior managers, to embed healthy cultures in their firms by identifying and modifying the key drivers of their culture.

The FCA is clearly keen to push senior managers at firms to take responsibility and drive out non-financial misconduct from firms, with the Dear CEO letter of 6 January 2020 clearly stating that “a senior manager’s failure to take reasonable steps to address non-financial misconduct could lead us to determine that they are not fit and proper.” The senior managers and certification regime, which was rolled out to virtually all FCA-authorised firms in December 2019, is not only a catalyst but also a critical tool for the FCA to drive reform in this area. The FCA has reminded firms to take into account such factors when considering the suitability and performance of (potential and existing) senior managers and other senior figures at firms.

Although the 6 January letter is aimed at the insurance sector, its demonstrates the FCA's recent commitment towards clamping down on firms with a negative culture and attitude towards unacceptable behaviour in the workplace generally. In particular, the FCA includes the following behaviours in its definition of non-financial misconduct: sexual misconduct, sexual harassment, other forms of harassment, bullying, discrimination, favoritism, exclusion and intimidation. This latest publication also makes clear that culture change within the financial services industry will continue to be a key focus of the FCA in 2020.

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